IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL (LOD.) NO.700 OF 2006

The Commissioner of Income tax(TDS) ..Appellant.

V/s.

M/s.Seika Plast ..Respondent.

Mr.A.D. Kango for appellant.

None for respondent.

CORAM : H.L.GOKHALE AND
J.P.DEVADHAR, JJ.

DATED : 27TH NOVEMBER, 2006.

P.C. :-

Appeal is taken up on board for admission. Heard Mr.Kango for the appellant. None for the respondent. Appeal raises the following question of law:-

> " Whether in the facts and circumstances of the case and in law, the Tribunal is right in upholding the order of CIT(A) who has passed the order deleting and reducing the penalty imposed u/s.272(1) (g) and restricting it to the extent of tax deducted at source ?

2. Here what has happened is that the respondent-assessee did not issue the TDS certificate in time. Therefore, penalty was imposed. Section 272 A(2)(g) of the Income Tax Act provides that where a

person concerned fails to furnish the certificate, he shall have to pay by way of penalty a sum of Rs.100/- per day during which the failure continues. The proviso, however, limits the amount to the tax deducted at source or collected. This is what the Tribunal has done and restricted the penalty to Rs.13,393/-. The Tribunal has followed the law correctly. No reason to interfere.

3. Appeal is dismissed.

(H.L.GOKHALE, J.)

(J.P.DEVADHAR, J.)